

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JAMES DENNIS LENIHAN, III,

Defendant.

CR-05-150-GF-BMM

ORDER

United States Magistrate Judge John Johnston entered Findings and Recommendations in this matter on November 29, 2022. (Doc. 139.)

When a party makes no objections, the Court need not review *de novo* the proposed Findings and Recommendations. *Bad Old Man v. Arn*, 474 U.S. 140, 153-52 (1986). This Court will review Judge Johnston's Findings and Recommendations, however, for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981).

Judge Johnston conducted a revocation hearing on November 28, 2022. (Doc. 137.) The United States accused James Lenihan, III (Lenihan) of violating his

conditions of supervised release 1) by using methamphetamine and marijuana on six separate occasions; 2) by consuming alcohol; 3) by using marijuana; and 4) by failing to report for substance abuse testing; 5) by failing to maintain full-time employment; and 6) by failing to follow the instructions of his probation officer. (Doc. 134.)

At the revocation hearing, Lenihan admitted to violating the conditions of his supervised release 1) by using methamphetamine and marijuana on six separate occasions; 2) by consuming alcohol; 3) by using marijuana; and 4) by failing to report for substance abuse testing; 5) by failing to maintain full-time employment; and 6) by failing to follow the instructions of his probation officer. (Doc. 137.)

Judge Johnston found that the violations Lenihan admitted proved to be serious and warranted revocation, and recommended revocation of Lenihan's supervised release and recommended a custodial sentence of 4 months, with 56 months of supervised release to follow, with the first 60 days of supervised release in a secure inpatient drug treatment facility and the next 90 days in home confinement. (Doc. 139.)

Lenihan was advised of his right to appeal and his right to allocute before the undersigned. (Doc. 137.) The violations prove serious and warrant revocation of Lenihan's supervised release. The Court finds no clear error in Judge Johnston's Findings and Recommendations.

Accordingly, **IT IS ORDERED** that Judge Johnston's Findings and Recommendations (Doc. 139) are **ADOPTED IN FULL. IT IS FURTHER ORDERED** that Defendant James Dennis Lenihan be sentenced to the Bureau of Prisons for 4 months, with 56 months of supervised release to follow, with the first 60 days of supervised release in a secure inpatient drug treatment facility and the next 90 days of supervised release subject to home confinement. Lenihan should maintain full-time employment (at least 40 hours a week) while on supervised release.

DATED this 14th day of December, 2022.



Brian Morris, Chief District Judge
United States District Court